

AMENDED IN ASSEMBLY APRIL 18, 2005

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

**ASSEMBLY BILL**

**No. 488**

**Introduced by Assembly Member Bermudez**

February 16, 2005

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An act to amend Sections 3076, 3145, 3146, 3147, 3147.5, 3147.6, 3147.7, 3148, 3150, 3152, and 3152.5 of, to amend and renumber Sections 3090.1, 3096, 3096.5, 3096.6, 3096.7, 3097, 3099, 3100, 3103, 3124, 3125, 3128, 3129, 3130, 3131, and 3135 of, to add Sections 3091, 3092, and 3110 to, to repeal Sections 3094, 3095, 3101, 3102, 3104, 3105, 3105.1, 3106, 3107, 3107.1, 3108, 3109, 3120, 3123, 3125, 3126, and 3127, and 3153 of, and to repeal and add Section 3090 of, the Business and Professions Code, relating to optometry, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 488, as amended, Bermudez. Optometry.

Existing law, the Optometry Practice Act, licenses and regulates the practice of optometry by the State Board of Optometry, and makes a violation of the act a crime. *Existing law requires licensed optometrists who fit or supply a patient with lenses to provide the patient with a receipt.*

*This bill would revise the information that is required on the receipt. The bill would authorize the board to issue a probationary license to an applicant, subject to specified terms and conditions.*

Existing law sets forth acts that constitute unprofessional conduct and acts that are unlawful, and authorizes the board to take specified action against licensees.

~~This bill would delete the provision making a violation of the act a crime, and would revise and recast provisions relating to~~

unprofessional conduct. The bill would authorize the Attorney General to prosecute a licensee for unprofessional conduct under the Administrative Procedure Act.

Existing law prohibits the board from maintaining a reserve balance in the Optometry Fund that is greater than 6 months of the appropriated operating expenses of the board in any fiscal year.

This bill would delete this prohibition.

Existing law authorizes the board to establish various fees and penalties related to the practice of optometry. Existing law requires the board to submit a report to certain committees of the Legislature whenever the board increases a fee.

This bill would delete the reporting requirement. The bill would also ~~require a holder of a license that has been reinstated after its expiration to pay a reinstatement fee, thereby making an appropriation and would make various changes to other those fees.~~

The bill would make related changes.

Vote: majority. Appropriation: ~~yes~~no. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1     *SECTION 1. Section 3076 of the Business and Professions*
- 2     *Code is amended to read:*
- 3     3076. A licensed optometrist shall deliver to each patient
- 4     ~~fitted or supplied with lenses that makes a payment to the~~
- 5     *practice a receipt that contains his or her signature and all of the*
- 6     *following information:*
- 7     (a) His or her ~~place of practice~~ *name.*
- 8     (b) The number of his or her license.
- 9     (c) ~~A specification of the lenses furnished, in accordance with~~
- 10    ~~prescription release laws~~ *His or her place of practice.*
- 11    (d) ~~The amount charged for them~~ *A description of the goods*
- 12    *and services for which the patient is charged and the amount*
- 13    *charged.*
- 14    ~~(e) Any referral for additional treatment.~~
- 15    *SECTION 1.*
- 16    *SEC. 2. Section 3090 of the Business and Professions Code is*
- 17    *repealed.*

1     ~~SEC. 2.~~

2     *SEC. 3.* Section 3090 is added to the Business and  
3 Professions Code, to read:

4     3090. Except as otherwise provided by law, the board may  
5 take action against all persons guilty of violating this chapter.  
6 The board shall enforce and administer this article as to license  
7 holders, and the board shall have all the powers granted in this  
8 chapter for these purposes including, but not limited to,  
9 investigating complaints from the public, other licensees, health  
10 care facilities, other licensing agencies, or any other source  
11 suggesting that an optometrist may be guilty of unprofessional  
12 conduct.

13     ~~SEC. 3.~~

14     *SEC. 4.* Section 3090.1 of the Business and Professions Code  
15 is amended and renumbered to read:

16     3096. (a) A licensee may be ordered to undergo a  
17 professional competency examination if, after investigation and  
18 review by the Board of Optometry, there is reasonable cause to  
19 believe that the licensee is unable to practice optometry with  
20 reasonable skill and safety to patients. Reasonable cause shall be  
21 demonstrated by one or more of the following:

22         (1) A single incident of gross negligence.

23         (2) A pattern of inappropriate prescribing.

24         (3) An act of incompetence or negligence causing death or  
25 serious bodily injury.

26         (4) A pattern of substandard care.

27     (b) The results of a competency examination shall be  
28 admissible as direct evidence and may be considered relevant in  
29 any subsequent disciplinary or interim proceeding against the  
30 licensee taking the examination, and, assuming those results are  
31 determined to be relevant, shall be considered together with other  
32 relevant evidence in making a final determination.

33     ~~SEC. 4.~~

34     *SEC. 5.* Section 3091 is added to the Business and  
35 Professions Code, to read:

36     3091. (a) The board may deny an optometrist's license to any  
37 applicant guilty of unprofessional conduct or of any cause that  
38 would subject a licensee to revocation or suspension of his or her  
39 license; or, the board in its sole discretion, may issue a  
40 probationary license to an applicant subject to terms and

1 conditions, including, but not limited to, any of the following  
2 conditions of probation:

3 (1) Practice limited to a supervised, structured environment in  
4 which the licensee's activities shall be supervised by another  
5 optometrist licensed by the board.

6 (2) Total or partial restrictions on drug prescribing privileges  
7 for controlled substances.

8 (3) Continuing medical or psychiatric treatment.

9 (4) Ongoing participation in a specified rehabilitation  
10 program.

11 (5) Enrollment and successful completion of a clinical training  
12 program.

13 (6) Abstention from the use of alcohol or drugs.

14 (7) Restrictions against engaging in certain types of optometry  
15 practice.

16 (8) Compliance with all provisions of this chapter.

17 (9) Any other terms and conditions deemed appropriate by the  
18 board.

19 (b) The board may modify or terminate the terms and  
20 conditions imposed on the probationary license if the licensee  
21 petitions for modification or termination of terms and conditions  
22 of probation. A licensee shall not petition for modification or  
23 termination of terms and conditions until one year has passed  
24 from the effective date of the decision granting the probationary  
25 license.

26 ~~SEC. 5.~~

27 *SEC. 6.* Section 3092 is added to the Business and  
28 Professions Code, to read:

29 3092. All proceedings against a licensee for unprofessional  
30 conduct, or against an applicant for licensure for unprofessional  
31 conduct or cause, shall be conducted in accordance with the  
32 Administrative Procedure Act (Chapter 5 (commencing with  
33 Section 11500) of Part 1 of Division 3 of Title 2 of the  
34 Government Code) except as provided in this chapter, and shall  
35 be prosecuted by the Attorney General's Office.

36 ~~SEC. 6.~~

37 *SEC. 7.* Section 3094 of the Business and Professions Code is  
38 repealed.

~~SEC. 7.~~

*SEC. 8.* Section 3095 of the Business and Professions Code is repealed.

~~SEC. 8.~~

*SEC. 9.* Section 3096 of the Business and Professions Code is amended and renumbered to read:

3097. The sending of a solicitor from house to house or the soliciting from house to house by the holder of a certificate of registration constitutes a cause to revoke or suspend his certificate of registration.

~~SEC. 9.~~

*SEC. 10.* Section 3096.5 of the Business and Professions Code is amended and renumbered to read:

3099. No optometrist shall advertise or otherwise hold himself or herself out to be a specialist in eye disease and the treatment thereof.

~~SEC. 10.~~

*SEC. 11.* Section 3096.6 of the Business and Professions Code is amended and renumbered to read:

3106. Knowingly making or signing any certificate or other document directly or indirectly related to the practice of optometry that falsely represents the existence or nonexistence of a state of facts constitutes unprofessional conduct.

~~SEC. 11.~~

*SEC. 12.* Section 3096.7 of the Business and Professions Code is amended and renumbered to read:

3105. Altering or modifying the medical record of any person, with fraudulent intent, or creating any false medical record, with fraudulent intent, constitutes unprofessional conduct. In addition to any other disciplinary action, the State Board of Optometry may impose a civil penalty of five hundred dollars (\$500) for a violation of this section.

~~SEC. 12.~~

*SEC. 13.* Section 3097 of the Business and Professions Code is amended and renumbered to read:

3108. When the holder is suffering from a contagious or infectious disease, it constitutes a cause to suspend his or her certificate of registration during the period of continuance of that disease.

1     ~~SEC. 13.~~

2     *SEC. 14.* Section 3099 of the Business and Professions Code  
3 is amended and renumbered to read:

4     3100. The holding out as having a special knowledge of  
5 optometry, as defined in this chapter, by the holder of a  
6 certificate of registration, constitutes a cause to revoke or  
7 suspend his or her certificate of registration.

8     ~~SEC. 14.~~

9     *SEC. 15.* Section 3100 of the Business and Professions Code  
10 is amended and renumbered to read:

11     3104. The employing of what are known as “cappers” or  
12 “steerers” to obtain business constitutes unprofessional conduct.

13     ~~SEC. 15.~~

14     *SEC. 16.* Section 3101 of the Business and Professions Code  
15 is repealed.

16     ~~SEC. 16.~~

17     *SEC. 17.* Section 3102 of the Business and Professions Code  
18 is repealed.

19     ~~SEC. 17.~~

20     *SEC. 18.* Section 3103 of the Business and Professions Code  
21 is amended and renumbered to read:

22     3109. Directly or indirectly accepting employment to practice  
23 optometry from any person not having a valid, unrevoked  
24 certificate of registration as an optometrist or from any company  
25 or corporation constitutes unprofessional conduct. Except as  
26 provided in this chapter, no optometrist may, singly or jointly  
27 with others, be incorporated or become incorporated when the  
28 purpose or a purpose of the corporation is to practice optometry  
29 or to conduct the practice of optometry.

30     The terms “accepting employment to practice optometry” as  
31 used in this section shall not be construed so as to prevent a  
32 licensed optometrist from practicing optometry upon an  
33 individual patient.

34     Notwithstanding the provisions of this section or the provisions  
35 of any other law, a licensed optometrist may be employed to  
36 practice optometry by a physician and surgeon who holds a  
37 certificate under this division and who practices in the specialty  
38 of ophthalmology or by a health care service plan pursuant to the  
39 provisions of Chapter 2.2 (commencing with Section 1340) of  
40 Division 2 of the Health and Safety Code.

~~SEC. 18.~~

*SEC. 19.* Section 3104 of the Business and Professions Code is repealed.

~~SEC. 19.~~

*SEC. 20.* Section 3105 of the Business and Professions Code is repealed.

~~SEC. 20.~~

*SEC. 21.* Section 3105.1 of the Business and Professions Code is repealed.

~~SEC. 21.~~

*SEC. 22.* Section 3106 of the Business and Professions Code is repealed.

~~SEC. 22.~~

*SEC. 23.* Section 3107 of the Business and Professions Code is repealed.

~~SEC. 23.~~

*SEC. 24.* Section 3107.1 of the Business and Professions Code is repealed.

~~SEC. 24.~~

*SEC. 25.* Section 3108 of the Business and Professions Code is repealed.

~~SEC. 25.~~

*SEC. 26.* Section 3109 of the Business and Professions Code is repealed.

~~SEC. 26.~~

*SEC. 27.* Section 3110 is added to the Business and Professions Code, to read:

3110. The board may take action against any licensee who is charged with unprofessional conduct, and may deny an application for a license if the applicant has committed unprofessional conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:

(a) Violating or attempting to violate, directly or indirectly assisting in or abetting the violation of, or conspiring to violate any provision of this chapter.

(b) Gross negligence.

(c) Repeated negligent acts. To be repeated, there must be two or more negligent acts or omissions.

(d) Incompetence.

1 (e) The commission of fraud, misrepresentation, or any act  
2 involving dishonesty or corruption, that is substantially related to  
3 the qualifications, functions, or duties of an optometrist.

4 (f) Any action or conduct that would have warranted the denial  
5 of a license.

6 (g) The use of advertising relating to optometry that violates  
7 Section 651 or 17500.

8 (h) Denial of licensure, revocation, suspension, restriction, or  
9 any other disciplinary action against a health care professional  
10 license by another state or territory of the United States, by any  
11 other government agency, or by another California health care  
12 professional licensing board. A certified copy of the decision or  
13 judgment shall be conclusive evidence of that action.

14 (i) Procuring his or her license by fraud, misrepresentation, or  
15 mistake.

16 (j) Making or giving any false statement or information in  
17 connection with the application for issuance of a license.

18 (k) Conviction of a felony or of any offense substantially  
19 related to the qualifications, functions, and duties of an  
20 optometrist, in which event the record of the conviction shall be  
21 conclusive evidence thereof.

22 (l) Administering to himself or herself any controlled  
23 substance or using any of the dangerous drugs specified in  
24 Section 4022, or using alcoholic beverages to the extent, or in a  
25 manner, as to be dangerous or injurious to the person applying  
26 for a license or holding a license under this chapter, or to any  
27 other person, or to the public, or, to the extent that the use  
28 impairs the ability of the person applying for or holding a license  
29 to conduct with safety to the public the practice authorized by the  
30 license, or the conviction of a misdemeanor or felony involving  
31 the use, consumption, or self administration of any of the  
32 substances referred to in this subdivision, or any combination  
33 thereof.

34 (m) Committing an act or *solicitation* punishable as a sexually  
35 related crime, if that act or solicitation is substantially related to  
36 the qualifications, functions, or duties of an optometrist.

37 (n) Repeated acts of excessive prescribing, furnishing or  
38 administering of controlled substances or dangerous drugs  
39 specified in Section 4022, or repeated acts of excessive  
40 treatment.



1 (o) Repeated acts of excessive use of diagnostic or therapeutic  
2 procedures, or repeated acts of excessive use of diagnostic or  
3 treatment facilities.

4 (p) The prescribing, furnishing, or administering of controlled  
5 substances or drugs specified in Section 4022, or treatment  
6 without a good faith prior examination of the patient and  
7 optometric reason.

8 (q) The failure to maintain adequate and accurate records  
9 relating to the provision of services to his or her patients.

10 (r) Performing, or holding oneself out as being able to  
11 perform, or offering to perform, any professional services beyond  
12 the scope of the license authorized by this chapter.

13 (s) The practice of optometry without a valid, unrevoked,  
14 unexpired license.

15 (t) The employing, directly or indirectly, of any suspended or  
16 unlicensed optometrist to perform any work for which an  
17 optometry license is required.

18 (u) ~~The permitting of another~~ *Permitting another person* to use  
19 the licensee's optometry license for any purpose.

20 (v) Altering with fraudulent intent ~~in any material regard~~ a  
21 license issued by the board, or using a fraudulently altered  
22 license, permit certification or any registration issued by the  
23 board.

24 (w) Except for good cause, the knowing failure to protect  
25 patients by failing to follow infection control guidelines of the  
26 board, thereby risking transmission of blood borne infectious  
27 diseases from optometrist to patient, from patient to patient, or  
28 from patient to optometrist. In administering this subdivision, the  
29 board shall consider the standards, regulations, and guidelines of  
30 the State Department of Health Services developed pursuant to  
31 Section 1250.11 of the Health and Safety Code and the standards,  
32 guidelines, and regulations pursuant to the California  
33 Occupational Safety and Health Act of 1973 (Part 1  
34 commencing with Section 6300) of Division 5 of the Labor  
35 Code) for preventing the transmission of HIV, hepatitis B, and  
36 other blood borne pathogens in health care settings. As  
37 necessary, the board may consult with the Medical Board of  
38 California, the Board of Podiatric Medicine, the Board of  
39 Registered Nursing, and the Board of Vocational Nursing and

1 Psychiatric Technicians, to encourage appropriate consistency in  
2 the implementation of this subdivision.

3 (x) Failure or refusal to comply with a request for the clinical  
4 records of a patient, that is accompanied by that patient's written  
5 authorization for release of records to the board, within 15 days  
6 of receiving the request and authorization, unless the licensee is  
7 unable to provide the documents within this time period for good  
8 cause.

9 (y) *It shall be unprofessional conduct for an optometrist to fail*  
10 *to refer a patient to an appropriate physician where an*  
11 *examination of the eyes indicates a substantial likelihood of any*  
12 *pathology that requires the attention of a physician.*

13 ~~SEC. 27. Section 3120 of the Business and Professions Code~~  
14 ~~is repealed.~~

15 SEC. 28. Section 3123 of the Business and Professions Code  
16 is repealed.

17 SEC. 29. Section 3124 of the Business and Professions Code  
18 is amended and renumbered to read:

19 3107. It is unlawful to use or attempt to use any certificate of  
20 registration issued by the board that has been purchased,  
21 fraudulently issued, counterfeited, or issued by mistake, as a  
22 valid certificate of registration.

23 ~~SEC. 30. Section 3125 of the Business and Professions Code~~  
24 ~~is repealed.~~

25 *SEC. 30. Section 3125 of the Business and Professions Code*  
26 *is amended and renumbered to read:*

27 ~~3125.~~

28 3078. It is unlawful to practice optometry under a false or  
29 assumed name, or to use a false or assumed name in connection  
30 with the practice of optometry, or to make use of any false or  
31 assumed name in connection with the name of a person licensed  
32 pursuant to this chapter. However, the board may issue written  
33 permits authorizing an individual optometrist or an optometric  
34 group or optometric corporation to use a name specified in the  
35 permit in connection with its practice if, and only if, the board  
36 finds to its satisfaction that:

37 (a) The place or establishment, or the portion thereof, in which  
38 the applicant or applicants practice, is owned or leased by the  
39 applicant or applicants, and the practice conducted at that place  
40 or establishment, or portion thereof, is wholly owned and entirely

1 controlled by the applicant or applicants; provided, however, that  
2 where the applicant or applicants are practicing optometry in a  
3 community clinic, as defined in subdivision (a) of Section 1204  
4 of the Health and Safety Code, this subdivision shall not apply.

5 (b) The name under which the applicant or applicants propose  
6 to operate is in the judgment of the board not deceptive or  
7 inimical to enabling a rational choice for the consumer public  
8 and contains at least one of the following designations:  
9 “optometry” or “optometric”; provided, however, that where the  
10 applicant or applicants are practicing optometry in a community  
11 clinic, as defined in subdivision (a) of Section 1204 of the Health  
12 and Safety Code, this subdivision shall not apply. In no case shall  
13 the name under which the applicant or applicants propose to  
14 operate contain the name or names of any of the optometrists  
15 practicing in the community clinic.

16 (c) The names of all optometrists practicing at the location  
17 designated in the application are displayed in a conspicuous place  
18 for the public to see, not only at the location, but also in any  
19 advertising permitted by law.

20 (d) No charges which could result in revocation or suspension  
21 of an optometrist’s certificate to practice optometry are pending  
22 against any optometrist practicing at the location.

23 Permits issued under this section by the board shall expire and  
24 become invalid unless renewed at the times and in the manner  
25 provided in Article 7 (commencing with Section 3145) for the  
26 renewal of certificates issued under this chapter. The board may  
27 charge an annual fee, not to exceed ten dollars (\$10) for the  
28 issuance or renewal of each such permit.

29 Any permit issued under this section may be revoked or  
30 suspended at any time that the board finds that any one of the  
31 requirements for original issuance of a permit, other than under  
32 subdivision (d), is no longer being fulfilled by the individual  
33 optometrist, optometric corporation, or optometric group to  
34 whom the permit was issued. Proceedings for revocation or  
35 suspension shall be governed by the Administrative Procedure  
36 Act.

37 In the event the board revokes or suspends the certificate to  
38 practice optometry of an individual optometrist or any member of  
39 a corporation or group to whom a permit has been issued under

1 this section, the revocation or suspension shall also constitute  
2 revocation or suspension, as the case may be, of the permit.

3 SEC. 31. Section 3126 of the Business and Professions Code  
4 is repealed.

5 SEC. 32. Section 3127 of the Business and Professions Code  
6 is repealed.

7 SEC. 33. Section 3128 of the Business and Professions Code  
8 is amended and renumbered to read:

9 3101. It is unlawful to advertise by displaying a sign or  
10 otherwise or hold himself or herself out to be an optometrist  
11 without having at the time of so doing a valid unrevoked  
12 certificate of registration from the board.

13 SEC. 34. Section 3129 of the Business and Professions Code  
14 is amended and renumbered to read:

15 3102. It is unlawful to advertise as being free or without cost  
16 the examination or treatment of the eyes or the furnishing of  
17 optometrical services.

18 SEC. 35. Section 3130 of the Business and Professions Code  
19 is amended and renumbered to read:

20 3103. It is unlawful to include in any advertisement relating  
21 to the sale or disposition of goggles, sun-glasses, colored glasses  
22 or occupational eye-protective devices, any words or figures that  
23 advertise or have a tendency to advertise the practice of  
24 optometry.

25 This section does not prohibit the advertising of the practice of  
26 optometry by a registered optometrist in the manner permitted by  
27 law.

28 SEC. 36. Section 3131 of the Business and Professions Code  
29 is amended and renumbered to read:

30 3094. In addition to other proceedings provided for in this  
31 chapter, whenever any person has engaged, or is about to engage,  
32 in any acts or practices that constitute, or will constitute, an  
33 offense against this chapter, the superior court in and for the  
34 county wherein the acts or practices take place, or are about to  
35 take place, may issue an injunction, or other appropriate order,  
36 restraining that conduct on application of the board, the Attorney  
37 General, the district attorney of the county, or on application of  
38 10 or more persons holding certificates issued under this chapter.

1 The proceedings under this section shall be governed by  
2 Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of  
3 the Code of Civil Procedure.

4 SEC. 37. Section 3135 of the Business and Professions Code  
5 is amended and renumbered to read:

6 3095. In accordance with Section 125.9, the board may  
7 establish a system for the issuance of citations, and the  
8 assessment of administrative fines, as deemed appropriate by the  
9 board.

10 SEC. 38. Section 3145 of the Business and Professions Code  
11 is amended to read:

12 3145. There is the Optometry Fund in the State Treasury.  
13 Unless otherwise provided, all money collected under the  
14 authority of this chapter shall be paid into this fund.

15 SEC. 39. Section 3146 of the Business and Professions Code  
16 is amended to read:

17 3146. A license issued under this chapter expires at 12 p.m.  
18 on the last day of the license holder's birth month following its  
19 original issuance and thereafter at 12 p.m. on the last day of the  
20 license holder's birth month every two years if not renewed. To  
21 renew an unexpired license, the license holder shall apply for  
22 renewal on a form prescribed by the board and pay the renewal  
23 fee prescribed by this chapter.

24 SEC. 40. Section 3147 of the Business and Professions Code  
25 is amended to read:

26 3147. ~~(a)~~ Except as otherwise provided by Section 114, an  
27 expired license may be renewed at any time within three years  
28 after its expiration on filing of an application for renewal on a  
29 form prescribed by the board, and payment of all accrued and  
30 unpaid renewal fees. If an expired license is renewed, the license  
31 holder shall pay the delinquency fee prescribed by the board.  
32 Renewal under this section shall be effective on the date on  
33 which the application is filed, on the date on which the accrued  
34 renewal fees are paid, or on the date on which the delinquency  
35 fee, if any, is paid, whichever last occurs. If so renewed, the

36 license shall continue as provided in Section 3146 and 3147.5.

37 ~~(b) A license that has been suspended is subject to expiration~~  
38 ~~and shall be renewed as provided in this article, but renewal does~~  
39 ~~not entitle the holder of a suspended license to engage in the~~

1 practice of optometry, or in other activity or conduct in violation  
2 of the order or judgment by which the license was suspended.

3 (e) ~~A license that has been revoked is subject to expiration, but~~  
4 ~~it may not be renewed. If the license is reinstated after its~~  
5 ~~expiration, the holder of the license, as a condition precedent to~~  
6 ~~its reinstatement, shall pay a reinstatement fee in an amount~~  
7 ~~equal to 150 percent of the renewal fee in excess of the renewal~~  
8 ~~fee.~~

9 *SEC. 41. Section 3147.5 of the Business and Professions*  
10 *Code is amended to read:*

11 3147.5. ~~A certificate which~~ *license that* has been suspended is  
12 subject to expiration and ~~shall be renewed as provided in this~~  
13 ~~article, but such renewal does not entitle the holder of the~~  
14 ~~certificate a suspended license, while it remains suspended and~~  
15 ~~until it is reinstated, to engage in the practice of optometry, or in~~  
16 ~~any other activity or conduct in violation of the order or~~  
17 ~~judgment by which the certificate license was suspended.~~

18 ~~A certificate which~~ *license that* has been revoked is subject to  
19 expiration, but it may not be renewed. If it is reinstated after its  
20 expiration, the holder of the ~~certificate license~~, as a condition  
21 precedent to its reinstatement, shall pay a reinstatement fee in an  
22 amount equal to 150 percent of the renewal fee ~~but not more than~~  
23 ~~twenty-five dollars (\$25) in excess of the renewal fee.~~

24 ~~SEC. 41.~~

25 *SEC. 42. Section 3147.6 of the Business and Professions*  
26 *Code is amended to read:*

27 3147.6. Except as otherwise provided by Section 114, a  
28 license that is not renewed within three years after its expiration  
29 may be restored thereafter, if no fact, circumstance, or condition  
30 exists that, if the license were restored, would justify its  
31 revocation or suspension, provided all of the following  
32 conditions are met:

33 (a) The holder of the expired license is not subject to denial of  
34 a license under Section 480.

35 (b) The holder of the expired license applies in writing for its  
36 restoration on a form prescribed by the board.

37 (c) He or she pays the fee or fees as would be required of him  
38 or her if he or she were then applying for a license for the first  
39 time and had not previously taken the examination for a license.

(d) He or she takes and satisfactorily passes the clinical portion of the regular examination of applicants, or other clinical examination approved by the board, and takes and satisfactorily passes the California law and regulations examination.

(e) After having taken and satisfactorily passed the clinical portion of the regular examination of applicants, or other clinical examination approved by the board, he or she pays a restoration fee equal to the renewal fee in effect on the last regular renewal date for licenses.

*SEC. 43. Section 3147.7 of the Business and Professions Code is amended to read:*

3147.7. The provisions of Section 3147.6 shall not apply to a person holding a ~~certificate which~~ license that has not been renewed within three years of expiration, if the person provides satisfactory proof that he or she holds ~~a an active~~ license from another state ~~and has practiced optometry in that state when his or her certificate expired~~. In this event, the person may renew his or her ~~certificate~~ license in the manner provided for under Section 3147.

~~SEC. 42.~~

*SEC. 44. Section 3148 of the Business and Professions Code is amended to read:*

3148. From each fee for the renewal of a license for the biennial renewal of a license, there shall be paid the sum of sixteen dollars (\$16) by the Director of Consumer Affairs to the University of California.

This sum shall be used at and by the University of California solely for the advancement of optometrical research and the maintenance and support of the department at the university in which the science of optometry is taught.

The balance of each renewal fee shall be paid into the Optometry Fund.

~~SEC. 43.~~

*SEC. 45. Section 3150 of the Business and Professions Code is amended to read:*

3150. The department may make all necessary disbursements to carry out the provisions of this chapter.

~~SEC. 44.~~

*SEC. 46. Section 3152 of the Business and Professions Code is amended to read:*

1 3152. The amount of fees and penalties prescribed by this  
2 chapter shall be established by the board in amounts not greater  
3 than those specified in the following schedule:

4 (a) The fee for applicants applying for a license shall not  
5 exceed two hundred seventy-five dollars (\$275).

6 (b) The fee for renewal of a license shall not exceed three  
7 hundred dollars (\$300).

8 (c)

9 The annual fee for the renewal of a branch office license shall  
10 not exceed seventy-five dollars (\$75).

11 (d) The fee for a branch office license shall not exceed  
12 seventy-five dollars (\$75).

13 (e) The penalty for failure to pay the annual fee for renewal of  
14 a branch office license shall not exceed twenty-five dollars (\$25).

15 (f) The fee for issuance of a license or upon change of name  
16 authorized by law of a person holding a license under this chapter  
17 shall not exceed twenty-five dollars (\$25).

18 ~~SEC. 45.~~

19 *SEC. 47.* Section 3152.5 of the Business and Professions  
20 Code is amended to read:

21 3152.5. The board may require each applicant for a certificate  
22 to use therapeutic pharmaceutical agents, pursuant to Section  
23 3041.3, to pay an application fee, and may require each license  
24 holder to pay a renewal fee. The application fee and the renewal  
25 fee shall not exceed the actual costs to the board of the reviewing  
26 and processing of the application for a license or renewal of a  
27 license, monitoring the practice by license holders, and enforcing  
28 the provisions of law governing the use of therapeutic  
29 pharmaceutical agents, the diagnosis and treatment of certain  
30 conditions, and the performance of certain procedures by persons  
31 certified to use therapeutic pharmaceutical agents.

32 *SEC. 48.* *Section 3153 of the Business and Professions Code*  
33 *is repealed.*

34 ~~3153. Notwithstanding Section 3152, the fee for the~~  
35 ~~examination required by Section 3041.1 shall not exceed~~  
36 ~~thirty-five dollars (\$35).~~